

# Home Rule 101: What is it, what it isn't and how to get it (if you want it)

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# Governmental Powers

What does it mean to be “home rule”?

## Dillon's Rule

- First expressed in an 1868 opinion by the Iowa Supreme Court, Chief Justice John Forrest Dillon ruled that units of local government “owe their origin to, and derive their powers and rights wholly from, the [state] legislature.”
- What has become known as “Dillon’s Rule” has been adopted by all 50 states.

# Dillon's Rule

## ■ The Illinois Constitution of 1970 states:

■ “Townships, school districts, special districts and units, **designated by law as units of local government**, which exercise limited governmental powers or powers in respect to limited governmental subjects **shall have only powers granted by law.**”

■ Ill. Const., Art. VII, Sec. 8.

# Home Rule

## Article VII, Section 6 1970 Illinois Constitution

- Any municipality which has a population of more than 25,000 are home rule units.
- Other municipalities may elect by referendum to become home rule units.
- Home rule units may elect, by referendum to become non-home rule.

# Home Rule Powers

Except as limited, a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt

# Home Rule Limitations

Home rule units may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that such is not limited by law or declared to be the State's exercise to be exclusive

# Home Rule Limitations

Home rule units cannot:

- incur debt payable from ad valorem property tax receipts maturing more than 40 years from the time it is incurred; or
- define and provide for the punishment of a felony.



# Home Rule Limitations

A home rule unit shall have only the power that the General Assembly may provide by law:

- (1) to punish by imprisonment for more than six months or
- (2) to license for revenue or impose taxes upon or measured by income or earnings or upon occupations.

# Limits on the State's Regulation of Home Rule Powers

The General Assembly may not deny or limit the power of home rule units:

- (1) to make local improvements by special assessment or
- (2) to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services.

# Home Rule Powers regarding Governmental Structure

Home Rule units have the power

- (subject to approval by referendum) to adopt, alter or repeal a form of government provided by law
- to provide for its officers, their manner of selection and terms of office only as approved by referendum or as otherwise authorized by law.

# Home Rule Limitations

The General Assembly may:

- deny or limit the power to tax and any other power or function of a home rule unit not exercised or performed by the State
- Provide for the exclusive exercise by the State of any power or function of a home rule unit other than a taxing power

# Home Rule Limitations

The General Assembly may:

- Limit the amount (and require referendum approval) of debt to be incurred payable from ad valorem property tax receipts in excess of certain percentages of the assessed value of its taxable property:

(if its population is 25,000 or less), an aggregate of one-half percent.

# Broad Construction of Home Rule Powers

The Illinois Constitution requires that powers and functions of home rule units shall be construed liberally.

# What does all of this mean?

See handout for specific examples of which powers may be exercised by home rule municipalities.



# What do we do if we want the voters to vote on this issue?

- The City Council must pass a resolution placing the question on the ballot.
- For the November election, the last date the Board can adopt such a resolution was yesterday (August 20, 2018).



# What rules apply about campaigning?

# No advocating for or against ANY referendum with public funds!

## ■ Illinois Constitution:

- “Public funds, property or credit shall be used only for public purposes.” Ill. Const. 1970, Art. VIII, Sec. 1.

## ■ Illinois Election Code:

- “No public funds shall be used to urge any elector to vote for or against any candidate or proposition, or be appropriated for political or campaign purposes.” 10 ILCS 5/9-25.1(b). (Class B/A misdemeanor.)

# No advocating for or against ANY referendum on compensated time

## ■ State Officials and Employees Ethics Act:

- All government officers and employees in Illinois “shall not intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off).” 5 ILCS 430/5-15.
- Municipalities must adopted an ordinance or resolution enforcing this Ethics Act. 5 ILCS 430/70-5.

# Not on the public dime!

- **State Officials and Employees Ethics Act:**
  - **“Prohibited political activity”** includes almost anything and everything political, including but not limited to **“Campaigning ... for or against any referendum question.”** 5 ILCS 430/1-5(12).
  - For a complete list of prohibited political activities, see Section 1-5 of the Ethics Act (5 ILCS 430/1-5).

# Prohibited Political Activities on Compensated Time

- Attending political meetings, rallies
- Soliciting contributions or anything of value
- Conducting public opinion polls
- Surveying voters
- Assisting in polls on Election Day
- Soliciting votes
- Circulating petitions
- Distributing campaign literature
- Campaigning for or against a referendum question

## Compensated Time

- Any time worked or counted towards any minimum work time, not including holidays or leave time
- Does not include paid sick or vacation time

# No public funds for advocating for or against ANY referendum!

## ■ But, distribution of factual information is OK!

### ■ Illinois Election Code, Section 9-25.1(b):

- “No public funds shall be used to urge any elector to vote for or against any candidate or proposition, or be appropriated for political or campaign purposes to any candidate or political organization. **This Section shall not prohibit the use of public funds for dissemination of factual information relative to any proposition appearing on an election ballot.”**  
10 ILCS 5/9-25.1(b).



## Off Duty

- Officials and employees can do or say what they want regarding a referendum
- Officials and employees can advocate for or against a referendum
- Provided they are not on municipal property or holding themselves out as municipal officials or employees



# How Can We Advocate for our Referendum?

- Off duty
- As a private citizen
- Through the use of a foundation

# Elements of a Successful Referendum

- Significant public trust in the governmental officials
- Clear communication of intended use of funds
- Widespread informational campaign

# Contact us...

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